IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No.1054 OF 1992

Ramchandra B. Posugade)
An adult, Indian Resident,)
Permanent Resident of village)
Jakhinwadi, taluka Karad,)
District Satara) .Petitioner

Vs.

1. Shankar Ramji Suryavanshi)
)
2. Sanjay Hanmant Suryavanshi,)
)
3. Smt. Kamal Hanmant Suryavanshi,)
All adults, Indian inhabitants)
permanent resident of 135,)
Shaniwar Peth, Karad, Taluka)
Karad, District Satara.)
)
4. Dinkar Babu Nalavade, Adult,)
Indian inhabitant, resident)
of village Jakhinwadi,taluka)
Karad, District Satara.) ... Respondents

Mr. Sampatrao A. Pawar, Advocate for the Petitioner.

CORAM : D. G. DESHPANDE, J.

DATE : OCTOBER 5, 2006.

ORAL JUDGMENT

. Heard the Advocate for the Petitioner. Nobody present for the Petitioner. Petitioner is a tenant. Proceedings were initiated by the Petitioner under Sec. 32-G read with Sec. 70-B of Bombay Tenancy Agricultural Lands Act (hereinafter referred to as the Act) before the Additional Tahsildar and ALT Karad. The Tahsildar held that there is no relationship of landlord and tenant between the parties and rejected the application. Tenant filed appeal before the

Assistant Collector, Satara. This appeal was allowed. The order of Additional Tahsildar and ALT Karad was set aside and he was directed to proceed further for fixing the purchase price. The landlord thereafter preferred Revision before the Maharashtra Revenue Tribunal, who allowed the Revision and set aside the order of the Collector and confirmed the order of the Tahsildar and therefore, this petition.

2. Counsel for the Petitioner took me to the order of the MRT, which is at Exh.G. It is clear from the said order i.e. paragraph 6, 7 to 11 that the MRT consistently and in continuously gave finding that the Petitioner was the tenant of the suit property. Further aspect of this matter was considered in this background and repeatedly MRT held that he is a tenant. Even the documents, which were tendered on record were accepted as proof of the case of tenancy. However, surprisingly in the last paragraph, MRT held that father of the Petitioner was cultivating the suit land in the capacity as hired labour and therefore, Revision was allowed, meaning thereby that the Petitioner is not the tenant. By way of illustration, I may quote following findings in paragraph 6 -

"It also appears from the record that suit

> lands were leased by one Janabai to the father of the present opponent in the year 1934 and since that time the opponent's father Babu was cultivating the same as tenant."

Then the MRT has repeatedly observed that the inquiry under Secion 32-G was postponed as the land-lady was widow. In paragraph 8, MRT has observed that-

> "It is also wrong to hold that tenancy of opponent no.1's father stood terminated automatically on the death of Janabai."

Then in the same paragraph, it is held and observed that-

> "So in this case what is to be mainly considered is that on the death of Janabai in 1970 , there would be no automatic termination of tenancy of the oponent's father and on the other hand, he become the deemed purchaser on 6-7-1970."

Similarly, in paragraph 9, with reference to rent receipts it is observed by MRT that -

"So these receipts can in no way defeat the right of the opponent No.1's father as a tenant in respect of the suit land."

Therefore, when repeatedly such findings are given in favour of the Petitioner or his father, then MRT was not justified in holding in the last paragraph that the Petitioner's father was cultivating the suit land in the capacity as a hired labourer. Where and on what basis these findings are given, is not known. Therefore, order of MRT is perverse, consequently, petition is required to be allowed. Hence, the order.

ORDER

1. Petition is allowed.

2. Rule is made absolute. The order of the Maharashtra Revenue Tribunal Pune is set aside and the order of Assistant Colector, Satara dated 17th January, 1984 is maintained.

[D. G. DESHPANDE, J.]